IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

Income Tax Appeal NO. 854 of 2000

The Commissioner of Income-tax .... Appellant.

vs.

Bhilad Textile Industries . Ltd. .. .. Respondents

Dr. P. Danial for Appellant
Mr. Ajay Sing i/b.
K. Gopal for Respondents.

CORAM: **S. RADHAKRISHNAN**
AND
A. S. AGUIAR JJ.

Date: 7/6/2005

ORAL JUDGMENT (Per S.Radhakrishnan J.)

1. Heard learned counsel for the Appellant and the Respondents. Perused the assessment order.

2. By this appeal the appellant is seeking to raise the following question of law:

"Whether, on the facts and in the circumstances of the case the Tribunal was justified in law in

holding that the Commissioner of Income Tax was not correct in setting aside the assessment on the issue of depreciation and computation of profits under section 115 J of the Income-tax Act 1961?"

3. We have also perused the original Assessment Order dated 16.3.1993. Learned counsel for the Appellant very fairly stated that the Respondent is entitled to make bona fide change in the method of valuation of the closing stock. There is no finding that the Respondent had maintained the account contrary to the provisions of the Companies Act. The learned counsel for the Respondent Mr. Ajay Sing brought to our notice the recent judgment of the Supreme Court in Apollo Tyres Ltd. Vs. Commissioner of Income-tax, 2002 (255) ITR 27, wherein the Supreme Court has observed as under:

"While so looking into the accounts of the company, an Assessing Officer under the Income-tax Act has to accept the authenticity of the accounts with reference to the provisions of the Companies Act which obligates the company to maintain its account in a manner provided by the statutory auditors and will have to be approved by

> the company in its general meeting and thereafter to be filed before the Registrar of Companies who has a statutory obligation also to examine and satisfy that the accounts of the company are maintained in accordance with the requirements of the Companies Act."

4. Under the aforesaid facts and circumstances, especially in view of the judgment of the Supreme Court in Apollo Tyres (supra) we find no substantial question of law involved in this appeal.

Appeal dismissed.

S. RADHAKRISHNAN

A. S. AGUIAR